

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 20-CV-11811

GEICO GENERAL INSURANCE COMPANY

v.

FEDERAL BUREAU OF INVESTIGATION

MEMORANDUM & ORDER

October 27, 2021

ZOBEL, S.D.J.

Plaintiff Geico General Insurance Company filed a negligence claim against the Federal Bureau of Investigation based on allegations that defendant's employee caused their motor vehicle to collide with plaintiff's insured's motor vehicle. Plaintiff assented to defendant's motion to set aside default judgment. Before the court is defendant's motion to dismiss the complaint for improper service. (Docket # 12).


Fed. R. Civ. P. 4(m) provides that service must be made "within 90 days after the complaint is filed." The court has discretion to extend the time for service where the statute of limitations would prejudice the plaintiff's ability to file a new complaint. United States v. Tobins, 483 F.Supp.2d 68, 80 (D. Mass.2007) (allowing extension of time to serve process where dismissal would bar claims due to expiration of statute of limitations); Fed. R. Civ. P. 4(m), Advisory Committee Note, 1993 Amendments ("Relief may be justified, for example, if the applicable statute of limitations would bar the refiled action . . .").

Plaintiff's Motion for Default Judgment (Docket # 11) is DENIED and defendant's Motion to Set Aside Default and Dismiss for Lack of Service (Docket # 12) is ALLOWED as to its request to set aside default and DENIED without prejudice as to its request to dismiss for lack of service.

This case was filed on October 3, 2020. More than one year has passed and proper service has yet to be made. On or before November 12, 2021, proper service shall be made in accordance with Fed. R. Civ. P. 4 and proof of service shall be filed with this court.

October 27, 2021

DATE

  
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RYA W. ZOBEL  
UNITED STATES DISTRICT JUDGE